

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

John Barber

v.

Civil No. 14-cv-98-JL

Richard Gerry, Warden,
New Hampshire State Prison,
and Brian Hill

REPORT AND RECOMMENDATION

Before the Court is Plaintiff John Barber's "Motion Asking the Court to Rule in Plaintiff's Favor" (doc. no. 23), seeking the entry of default judgment against Defendant Brian Hill (doc. no. 23). No objection has been filed.

On April 21, 2014, this Court issued an order (doc. no. 9) directing service of the complaint on New Hampshire State Prison ("NHSP") Warden Richard Gerry, and former NHSP Corrections Officer Brian Hill. The New Hampshire Attorney General's office ("AG") accepted service on behalf of Gerry on May 20, 2014. On June 3, 2014, the AG filed a notice (doc. no. 15) declining to represent Hill. Hill was served by the United States Marshal for the District of New Hampshire on June 11, 2014. See Doc. No. 12 (executed Return of Service for Hill).

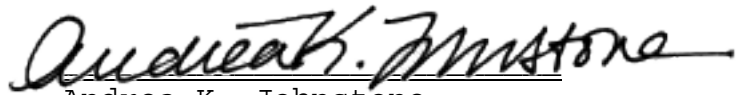
On July 1, 2014, the same day Barber filed the instant Motion, Hill filed a Motion (doc. no. 22) for an extension of time in which to file his answer. The Court granted Hill until September 2, 2014, to either file an answer or request further extension.

The deadline set by the Court for Hill to answer or otherwise plead has not yet occurred. There is, accordingly, no basis upon which to grant Barber relief in the action against Hill at this time, and Barber's motion (doc. no. 23) should be denied as premature.

CONCLUSION

For the foregoing reasons, Barber's "Motion Asking Court to Rule in Plaintiff's Favor" (doc. no. 23) should be denied. Any objections to this report and recommendation must be filed within fourteen days of receipt of this notice. See Fed. R. Civ. P. 72(b)(2). Failure to file objections within the specified time waives the right to appeal the district court's order. See United States v. De Jesús-Viera, 655 F.3d 52, 57 (1st Cir. 2011), cert. denied, 132 S. Ct. 1045 (2012); Sch. Union No. 37 v. United Nat'l Ins. Co., 617 F.3d 554, 564 (1st Cir. 2010) (only issues fairly raised by objections to

magistrate judge's report are subject to review by district court; issues not preserved by such objection are precluded on appeal).

A handwritten signature in black ink, reading "Andrea K. Johnstone". The signature is written in a cursive, flowing style with a long horizontal line extending from the end.

Andrea K. Johnstone
United States Magistrate Judge

August 26, 2014

cc: John Barber, pro se
Francis Charles Fredericks, Esq.
Brian Hill, pro se